

OFFICE OF THE CHIEF FINANCIAL OFFICER

NOTICE OF PROPOSED RULEMAKING

The Office of the Chief Financial Officer ("OCFO"), established pursuant to Section 302 of the District of Columbia Financial Responsibility and Management Assistance Act ("CFO Act") of 1985 (Pub. L. 104-8) has independent procurement authority pursuant to the authority granted to the Chief Financial Officer by Section 424 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Pub. L. 83-198), as amended by Section 302 of the CFO Act, and the Procurement Reform Act of 1996 (D.C. Law 11-259), which exempts the Office of the Chief Financial Officer from the provisions of the Procurement Practices Act, as extended by Section 142 of the District of Columbia Appropriations Act of 1997 (Pub. L. No. 104-184), as further extended by Section 111(c) of the District of Columbia Appropriations Act of 2002 (Pub. L. No. 107-96), Section 409 of the 2002 Supplemental Appropriations Act (Pub. L. No. 107-206), and Section 2302 of the Emergency Wartime Supplemental Appropriations Act of 2003 (Pub. L. No. 108-11), Continuing Resolution dated September 28, 2004 (Pub. L. No. 108-309), and Section 336 of the District of Columbia Appropriations Act for Fiscal Year 2005 (Pub. L. No. 108-335) the following regulations, previously adopted by the District of Columbia Financial Responsibility and Management Assistance Authority, are published.

The District of Columbia, Office of the Chief Financial Officer hereby gives notice of its intent to adopt the following regulations, previously adopted by the District of Columbia Financial Responsibility and Management Assistance Authority, as an amendment to Title 9 of the District of Columbia Municipal Regulations (DCMR) by adding chapters 80-85, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following regulations are the substance of the procurement regulations of the District of Columbia Financial Management Assistance Authority, which were adopted by the Chief Financial Officer pursuant to Financial Management Issuance 97-15 (CFO Order).

As provided in the CFO Order, except for Chapter 80, Section 8000.1 below, all references to the "Authority" in the adopted regulations shall be substituted with the reference to the "Office of the Chief Financial Officer."

All references to the "Executive Director" in the adopted regulations shall be substituted with the reference to the "Chief Financial Officer."

All references to the "General Counsel" in the adopted regulations shall be substituted with the reference to the "General Counsel to the Chief Financial Officer."

All references to the "Chair" and "Vice Chair" shall be substituted with references to "Chief Financial Officer" and the "Director, Mission Support Center," respectively.

CHAPTER 80**INTRODUCTION****8000 AUTHORITY**

- 8000.1 The District of Columbia Financial Responsibility and Management Assistance Authority ("Authority") was established by Pub. L. 104-8. The Authority is an entity within, but independent from, the government of the District of Columbia ("District"). The Authority is not a department, agency, establishment or instrumentality of the United States government.
- 8000.2 The Authority, through its Executive Director, is empowered to enter into contracts to carry out the Authority's statutory responsibilities.
- 8000.3 The Authority is statutorily exempted from adhering to D.C. Code procurement provisions and, because the Authority is not an agency of the United States government, the Armed Services Procurement Act of 1847 and the Federal Property and Administration Service Act of 1849 do not apply to the Authority's contracting activities. Likewise, neither the Federal Acquisition Regulations nor the District of Columbia procurement regulations apply to the Authority's contracting activities.
- 8000.4 These regulations are for the benefit of the Authority, and do not confer any rights or benefits on third parties. They are intended to permit the Authority to procure property and services efficiently and either at the least cost to, or representing the best value for, the Authority. Because of the nature of its mission, the Authority requires maximum flexibility in its procurement procedures. The Executive Director may at any time in his or her discretion waive applicability of any provision of these regulations with respect to a procurement or proposed procurement by the Authority, except Section 8001.3 of this Chapter 80.
- 8000.5 These regulations may be amended by the Authority at any time.

8001 CONTRACTING OVERVIEW

- 8001.1 The Authority is permitted "to accept, use and dispose of gifts, bequests and devises of services or property, both real and personal," in furtherance of its responsibilities. The Authority's procurement solicitations shall note the Authority's legal right to receive such donations.
- 8001.2 The Authority's procurement will generally fall into one of the following categories:
- a. The Authority may contract for accounting, legal, financial, management, economic, and other professional, expert, and/or consulting services to support the Authority's statutory mission. The Authority may also from time to time contract for such services on behalf of District agencies when time or other circumstances make a procurement by an agency infeasible or a procurement by the Authority preferable.

b. The Authority may contract for services and property in support of its day-to-day operations, such as office space, office equipment, office supplies, library and printing services, general operations such as mail and messenger services, education and training services, temporary staff services, investigative services, banking services, data processing services, personnel services and administration, and insurance.

8001.3 The Authority's contracting is, by statute, vested in the Executive Director, who may from time to time delegate specific contracting and procurement responsibility and authority to various members of the Authority's staff. When authority is delegated to a staff member to serve as Contracting Officer for a particular contract or category of procurement, the delegation shall be in writing. All references herein to the Executive Director shall be deemed to include any such delegations.

8001.4 To accomplish its missions effectively, it is the Authority's intention to (a) proceed as expeditiously as possible with contractor selection and contract award; (b) ensure that contractors have no conflicts of interest that might hinder or appear to cause a bias in business judgment and advice to the Authority; and (c) monitor contractor performance and certify satisfactory performance prior to payment of any contractor invoice.

8001.5 In selecting sources for its contracts, the Authority may, when consistent with obtaining the best value, give preferences to entities that (a) are based in or employ residents of the District of Columbia, (3) qualify as disadvantaged businesses. When written solicitation procedures are employed, any such preferences shall be clearly defined.

**8002 AVOIDANCE OF CONFLICTS OR IMPROPRIETY AND THE
 APPEARANCE OF CONFLICTS OR IMPROPRIETY**

8002.1 The Authority intends to avoid even the appearance of conflict of interest or impropriety in connection with procurement. It therefore requires that any Member, Officer or other employee of the Authority immediately report to the Executive Director or the General Counsel any significant connection which he or she may have to a potential or actual contractor when he or she becomes aware of that connection or the possible or actual contract. A "significant connection" includes any interest or relationship covered by DC Code Section 1-1461 or the Authority's Rules and Regulations Pertaining to Ethics and Conflicts of Interest, but also includes such relationships with extended family, close friends, former clients, former employers or employees and others as could create the appearance of conflicts of interest or impropriety.

8002.2 In determining whether a relationship or connection is "significant" for this purpose and should be reported, a Member, Officer, or other employee should resolve any uncertainty or ambiguity in favor of disclosure. Disclosure cannot harm either the Authority's mission or reputation for ethical standards; failure to disclose can harm both, as well as the reputation of the individual.

8002.3 When any such significant connection is reported, the Authority shall take appropriate steps to ensure that the connection cannot and does not taint the procurement process. These may include resoliciting a proposed procurement to add additional offerors, recusing the

individual Authority-related person from any role in the procurement process, or disqualifying the contractor or potential contractor.

CHAPTER 81

COMPETITION POLICY, SOURCE DEVELOPMENT, CONTRACTING METHODS, SOURCE SELECTION COMPLAINTS

8100 COMPETITION

- 8100.1 The Authority prefers competition among potential vendors to ensure fair and reasonable prices and the best value for the Authority. To obtain adequate competition, and to treat vendors fairly and consistently, the Authority shall solicit and consider a sufficient number of offerors appropriate for the type and value of the particular procurement.
- 8100.2 Although the Authority prefers competitive procurement, circumstances do occur when the use of noncompetitive procedures makes good business sense or promotes the Authority's missions. Such circumstances include some or all of the following:
- a. When competitive procurement is not cost effective;
 - b. When there is insufficient time to solicit competitive proposals;
 - c. For interim contracts to meet the Authority's needs in advance of a competitive procurement;
 - d. When an existing contractor offers benefits of historical expertise, and hence other contractors cannot perform as cost-effectively or as timely as the current contractor;
 - e. When, after investigation, only one firm is considered capable of meeting the Authority's requirements, such as when the services are so specialized that they demand an individual or firm with unusual or unique capabilities or experience.
- 8100.3 Each such procurement shall be accompanied by a written justification of the use of noncompetitive procedures.
- 8100.4 A noncompetitive contract exceeding \$100,000 on an annual basis shall be approved by the Chair or in his/her absence the Vice Chair.
- 8100.5 The Authority shall endeavor to use generic descriptions for commercial products rather than describing a specific product, or a particular feature of a product, peculiar to one manufacturer. Items can be identified by using the brand name followed by the words "or equal."
- 8100.6 When the contract being solicited by the Authority exceeds \$10,000 in value, each offeror shall certify that its offer has been arrived at independently, without any consultation, communication, or agreement with any other offeror or competitor for the purpose of restricting competition.

8101 DEVELOPMENT OF POTENTIAL SOURCES**8101.1 Objectives.**

- a. To achieve the benefits of competition, the Authority shall endeavor to identify private sector firms with the qualifications needed by the Authority that are or may be interested in contracting with the Authority.
- b. The Authority encourages private sector firms to make their capabilities and qualifications known to the Authority either for unspecified future solicitations or in response to a specific solicitation.

8101.2 The Authority shall publicize contracting opportunities when consistent with contracting goals and the time available.

- a. The Authority's goal in publishing its contracting opportunities is to make potential qualified sources aware of the Authority's requirements, to promote adequate competition, to maintain lists of potential sources for supplies and services, and to treat private sector firms fairly and consistently.
- b. In deciding the extent to which the Authority's contracting opportunities shall be publicized, the Executive Director shall consider the cost in both administrative time and actual dollars against potential effectiveness.
- c. Paid announcements of contracting opportunities may be placed in newspapers, trade journals, magazines, or other appropriate national or local media, the D.C. Procurement Digest and the Commerce Business Daily.
- d. Any such advertisement shall state the Authority's requirements and the minimum qualifications required, and request sufficient information from respondents to determine whether a firm is generally qualified to receive the solicitation. Responding firms meeting the minimum qualification requirements shall be placed on the solicitation list.

8101.3 Members of the Authority and its staff are encouraged to share with the Executive Director information concerning any qualified potential competitors for the Authority's contracts.**8101.4 As needed, the Executive Director may research additional sources using such tools as association directories and industry publications, or by contacting other entities which purchase similar products or services.****8102 CONTRACTING METHODS****8102.1 The Authority shall procure property and services in accordance with the following procedures:**

- a. Chapter 81 sets forth procedures for noncompetitive contracting.
- b. Chapter 83 sets forth procedures to be used when placing orders under GSA Schedules.

8102.2 Simplified Contracting.

- a. Simplified contracting procedures may be used when appropriate to the nature of the goods or services to be provided and/or the value of the procurement is not expected to exceed \$100,000:
- b. For contracts under \$25,000, a minimum of three qualified sources shall be solicited if available; and
- c. For contracts between \$25,000 and \$100,000, a minimum of five qualified sources shall be solicited if available.

8102.3 Procedures. Chapter 83 sets forth the procedures for simplified contracting.

8102.4 Formal Contracting.

- a. In formal contracting, firms having the ability to provide the required services or goods are solicited for comprehensive proposals. Technical proposals are evaluated by a Technical Evaluation Panel ("TEP"). Cost proposals are evaluated by the Executive Director. Subsequent to these evaluations, negotiations may be conducted with one or more firms to ensure that the Authority and the firm have a mutual understanding of what is required and what is being proposed. Award is made to the firm offering the Authority the best value, with regard to technical and price goals.
- b. Chapter 84 sets forth procedures that shall be used for formal contracting.

8102.5 Task Order Agreements.

- a. The Authority may establish task order agreements to facilitate ordering common, recurring services or property when the exact quantity or timing of the need for those services is not known at the time the agreement is entered into. Task order agreements are written instruments of understanding that contain terms and conditions applying to future task orders.
- b. Chapter 85 sets forth the procedures governing task order agreements.

8103 ISSUE RESOLUTION

8103.1 At his or her discretion, the General Counsel of the Authority may review source selection decisions or any other issue associated with a procurement undertaken by the Authority, at the request of the Executive Director, the Authority, any competitor for the procurement, or any party interested in the procurement.

8103.2 The Authority's Executive Director may reconsider a source selection decision or any other issue associated with a procurement upon consultation with the General Counsel when an issue is raised to the General Counsel. The decision of the Executive Director with respect to any issue associated with an Authority procurement shall be final and not subject to protest or review.

CHAPTER 82
GENERAL PROCEDURES FOR DEVELOPING A PROCUREMENT

8200 REQUESTING INITIATION OF CONTRACT ACTION

A member of the Authority's staff, or a duly authorized official of a District office or agency who has identified a need to procure supplies or services, may propose that the Executive Director initiate a procurement action. The proposal need not be in writing, but shall be sufficiently detailed to enable the Executive Director to determine (1) whether the procurement is appropriate to the Authority's missions and (2) whether sufficient unobligated appropriated funds are available to support the procurement. Such information may include:

8200.1 A description of the services or supplies required, the required delivery or performance date(s), and any special contract terms needed such as unusual payment procedures.

8200.2 Listings of both minimum and desirable qualifications or features of the supplies or services.

8200.3 An estimate of the range of expected prices for the services or supplies being requested.

8200.4 A description of suggested sources such as prequalified companies or availability from the GSA Schedules.'

8200.5 For consulting or other services, identification of the individuals within the Authority who would monitor and evaluate the performance of the contractor.

8200.6 Where applicable, suggested evaluation criteria for written proposal evaluation.

8201 PREPARING STATEMENTS OF WORK AND OTHER PROCUREMENT DOCUMENTS

8201.1 The Executive Director shall designate one or more members of the Authority's staff, or request the applicable District office or agency, to prepare a statement of work (SOW) for the requirement and other appropriate procurement documents. The Executive Director may require the SOW to be prepared prior to or after the decision to initiate a procurement action.

8201.2 The SOW establishes the scope of services that a contractor shall provide, and also provides a basis for the contractor's preparation of technical and cost proposals where written proposals are required. In the awarded contract, the SOW also operates as the standard for measuring the contractor's performance and effectiveness.

8201.3 A SOW shall include a thorough description of the required services and expected results, including the minimum standards that shall be met, company and individual qualification necessary to perform the work, deliverable times and a schedule for delivery, and standards by which the contractor's performance shall be measured.

8201.4 Upon receipt of all necessary information, the Executive Director may initiate an appropriate procurement.

8201.5 All procurement documents, including contract terms and conditions, shall be approved by the General Counsel.

CHAPTER 83

SIMPLIFIED CONTRACTING PROCEDURES

8300 OVERVIEW

8300.1 These procedures are designed to permit prompt and simplified contract award and purchases consistent with the principles of adequate competition and fair and consistent treatment of offerors.

8300.2 The procedures set forth in this Chapter shall be used when: (a) the Requirement for supplies or services is appropriate for these procedures and/or is not expected to exceed a total value of \$100,000; or (b) purchases are to be made from a GSA Schedule.

8300.3 The Executive Director shall determine whether a particular request for supplies or services is of the type appropriate for the use of the simplified procedures set forth herein.

8301 COMPETITION

8301.1 Competition shall be obtained to the maximum extent practicable given the nature of the procurement, the required time for delivery of the supplies or services, and the number of readily available sources. In order to maximize competition for simplified procurements, the Authority shall use relevant standard commercial publications, including but not limited to trade publications, telephone directories, and/or newspaper advertisements, that can assist in identifying companies which may be able to provide the types of supplies or services needed by the Authority.

8301.2 Where necessary due to time constraints or other considerations, competition may be restricted to (1) sources listed on a solicitation list maintained by the Authority, or (2) sources that have existing task order agreements under the procedures outlined in Chapter 85. Where appropriate, a negative evaluation of a company's past performance may be considered in restricting sources for a particular category of goods or services under these procedures. Noncompetitive contract awards shall not be made unless authorized in accordance with the procedures set forth in Chapter 81.

8301.3 On a semi-annual basis, the Executive Director shall review all purchases and awards made in accordance with these simplified contracting procedures to ensure that selection of sources is unbiased and has provided opportunity for a reasonable number of qualified firms to participate in the Authority's procurements.

8302 METHODS FOR SOLICITATION

The Executive Director may use any of the following methods to solicit sources for participation in a particular procurement:

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8302.1 Verbal quotations may be solicited by telephone or electronic communication for procurement of supplies or services under \$10,000, if the award will be made solely on the basis of price and if at least three sources will be solicited. When this solicitation method is used, the solicitor shall record the name and telephone number of each company solicited and the name of the individual contacted, the date of the telephone or electronic communication contact, and all information provided in response to the solicitation (price, delivery schedule, particular features of supplies, etc.). A brief rationale for source selection shall be included.

8302.2 Written solicitations shall be used for all procurements for which verbal quotations are deemed to be inappropriate. The solicitation may be sent to offerors via electronic communications when available. All written solicitations may be advertised in publications appropriate to obtain maximum practicable competition. Written solicitations shall include, at a minimum:

- a. A functional description of the supplies or services sought, including, where necessary, a statement of work describing the scope of the work to be performed;
- b. A description of the overall proposal submission requirements including page limitations, and the due date, time, and place (including provisions for submission of proposals via electronic communication);
- c. A delivery schedule for the supplies or services;
- d. A description of required proposal contents, such as an offeror's experience, management, and financial resources, key personnel qualifications, and ability to comply with schedule and technical requirements; and
- e. A brief explanation of the evaluation criteria and basis for award.

8302.3 A comparison of published information available through trade publications, catalogs, or other market research tools. Verbal or written confirmation of price, availability, and quality shall be made prior to execution of the contract, and records shall be kept of information consulted and comparisons made.

8302.4 Use of existing task order agreements in accordance with the procedures described in Chapter 85.

8303 EVALUATION AND AWARD

8303.1 Evaluation of verbal offers and source selection shall be made by the Executive Director.

8303.2 When written proposals are submitted, they shall be evaluated by two or more individuals designated by the Executive Director as the Evaluation Team. The Evaluation Team shall document the basis for its initial recommendation for award, including a brief description of how the selected proposal fulfilled the evaluation criteria stated in the solicitation, the reasonableness of the proposed price, and why the recommended proposal offers the best value of all proposals received. The Executive Director shall review the recommendation and make the final determination for award.

8303.3 Prior to award, informal negotiations may be conducted with the selected potential contractor where needed to clarify or verify information contained in the proposal or in published information such as catalogs.

8303.4 Prior to award, the Executive Director shall conduct a business reference check concerning the potential contractor's business and financial status and shall otherwise determine the responsibility of the potential contractor.

8303.5 After obtaining approvals as required, the Executive Director shall notify the successful offeror that it has been selected for award and shall execute all contract documentation. The Executive Director shall promptly notify unsuccessful offerors of the award decision.

CHAPTER 84 FORMAL CONTRACTING

8400 OVERVIEW

8400.1 This chapter addresses the competitive contracting process to be used for services or property where the size or the nature of the procurement requires complex evaluation procedures.

8400.2 Applicability

- a. The procedures set forth in this chapter are mandatory for contracting actions that can be expected to result in the Authority's expenditure of \$500,000 or more on an annual basis.
- b. These procedures may also be used for competitive contracting actions estimated at less than \$500,000, and as an alternative to the simplified procedures set forth in Chapter 83, when complex evaluation procedures are considered appropriate.

8400.3 Best- Value Determination

- a. The procedures set forth in this chapter are aimed at ensuring that the Authority obtains the best value for the services or goods it acquires. In seeking the best value, the Authority aims to obtain the most favorable combination of:
 - (1) Features and characteristics of the offered services or goods;
 - (2) Acceptable contractor capabilities;
 - (3) Delivery or performance terms and conditions; and
 - (4) The cost to the Authority.
- b. Determining best value is a two-step process. The first step involves establishing, prior to solicitation, the evaluation structure for technical, cost, and other factors that will identify the firm that offers the best value for the requirement. The second step involves comparing the competing proposals to determine how well or how poorly each proposal measures up to these criteria.
- c. When a quality level consistent with a standard industry practice is acceptable, cost may be the controlling factor. However, some Authority requirements will be better satisfied by improved quality of service or product performance. In these cases, cost may be given less weight than technical considerations.

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8401 PRE-SOLICITATION ACTIVITIES**8401.1 Evaluation Structure**

- a. The Executive Director shall develop evaluation criteria which are consistent with SOW requirements and the Authority's goals with respect to the particular procurement. General ground rules for developing evaluation criteria follow:
- b. The relative ranking of estimated costs or price to technical shall be described either by narrative description (i.e., cost is less important than technical) or by formulas assigning weights to cost and technical scores.
- c. Evaluation criteria shall be developed for the specific requirements of each contract, to predict which of the offerors is most qualified to perform under the contract. Therefore, criteria shall be chosen that will require the offeror to provide evidence of ability to perform. These criteria shall address the following topics:
 - (1) Understanding of the requirements;
 - (2) Management ability;
 - (3) Commitment to quality;
 - (4) Key personnel (qualifications and experience);
 - (5) Resources and facilities; and
 - (6) Similar prior experience.
- d. An offeror's price or estimated cost can appropriately be considered in a technical evaluation. For example, the makeup of a cost proposal can provide added insight into the evaluation of an offeror's understanding of the requirements. If an offeror's total proposed cost falls far short of the probable cost of essential elements of the Authority requirement, the offeror's understanding of what the Authority is seeking is called into question.

8401.2 Standards

- a. For each variable criterion, quantitative standards shall be established prior to solicitation that enable evaluators to determine the degree to which an offeror possesses the attributes called for by the criterion. Standards provide uniformity to the evaluation process. They enable evaluators to determine to what degree an offer meets a criterion and therefore how the offeror's proposal shall be scored.
- b. Standards shall be expressed as a numerical range; The lowest standard in the range represents the minimum acceptable compliance; any offeror not meeting the minimum standard receives no points for that particular criterion. Successively higher standards shall be established as appropriate. For example, for a variable criterion to be used in evaluating the key personnel proposed by firms whose professional members are not normally certified by a committee of peers, three years experience might be established as a minimum standard for all key personnel. Additional points might be awarded if a given number or proportion of the key personnel possess ten years experience or more.

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8401.3 The Scoring System

- a. The relative importance of each of the individual technical evaluation criteria shall be analyzed and each criterion given a rank and weight.
 - (1) Rank each criterion shall be assigned one of the following ranks:
 - (a) Most important;
 - (b) More important; or
 - (c) Important
 - (2) Weight. A numerical weighting system, indicating the relative weight to be accorded each rank shall be established.
- b. During the evaluation process, each technical criterion shall be assessed and assigned a score based on the evaluator's assessment of the proposal's promise of meeting the evaluation criteria.

8401.4 Developing the Solicitation List

- a. The Executive Director shall determine whether to use a source list or advertising to obtain competition, based on the time available for procurement and the services or goods provided.
- b. Normally a minimum of five sources shall be selected from a solicitation list to ensure adequate competition and fair and consistent treatment of offerors. Selection shall be based on the following criteria:
 - (1) Each firm solicited is believed to have the specific qualifications to reasonably carry out the services requested; and
 - (2) The same firms shall not repeatedly compete against one another.

8401.5 Source Selection Plan

- a. A source selection plan shall be developed for each projected contract award over \$1,000,000 employing competitive procedures when price and price-related factors are not the only basis for proposal evaluation and contractor selection. For projected contract awards between \$100,000 and \$1,000,000, a formal source election plan is not required. However, the evaluation structure, including the evaluation criteria used, shall be fully documented.
- b. The source selection plan's contents shall reflect the nature of the requirement The plan provides guidelines and a control mechanism for conduct of the source evaluation and selection process. At a minimum, the plan should:
 - (1) Describe the services to be contracted for in a statement of work that includes a performance or delivery schedule;
 - (2) Identify those individuals, if known at that time, who will be members of the Technical Evaluation Panel (TEP) and their respective responsibilities;
 - (3) Describe the proposal evaluation criteria and the standards for evaluating proposals against the criteria, to ensure each evaluator's ability to apply the criteria and standards independently;
 - (4) State the importance of each technical criterion relative to other technical criteria;
 - (5) State the relative weight to be given to the technical criteria relative to the cost criteria and method of scoring; and

(6) Describe any other elements of the selection procedures to be used by the Technical Evaluation Panel (TEP), such as site visits or pre-award surveys.

8401.6 Technical Evaluation Panel

- a. A TEP shall be established to provide technical expertise for the development of the source selection plan and evaluation structure and to implement it.
- b. The size and membership of the TEP depend upon the magnitude and complexity of the proposed contract. The TEP shall consist of at least three voting members, one of whom is designated chairperson. The Authority may appoint outside consultants as TEP members. The General Counsel shall provide advice to the TEP, and may also serve on the TEP. If any circumstances exist that may cast doubt on a member's ability to evaluate proposals objectively, that member shall alert the General Counsel to the need for resolution of the potential conflict of interest.
- c. The TEP shall evaluate the technical proposals against the stated evaluation criteria in a timely manner, and provide the evaluation results to the Executive Director, who shall evaluate and rank the cost proposals. The TEP receives a copy of cost proposals only after completing its technical evaluation; the panel's sole purpose in reviewing cost proposals is to determine whether the technical proposal is credible in light of the proposed costs. The TEP accomplishes its function by following a structured system based on technical criteria and standards for use in evaluating proposals against those criteria.

8402 SOLICITATION PREPARATION AND DISTRIBUTION

8402.1 The solicitation shall include:

- a. A description of the Authority's requirements;
- b. The evaluation criteria established for the procurement and their relative importance;
- c. Minimum qualifications, if any, required of offerors;
- d. Instructions as to how, where and when to submit proposal; and any particular submission requirements such as resumes or list of references; and
- e. Terms and conditions of the proposed contract.

8402.2 Offerors' Conference and Offerors' Questions.

- a. It is sometimes necessary to hold an offerors' conference, prior to proposal submission, to provide clarification on matters of interest. Such a conference shall be held as early as feasible in the solicitation sufficiently in advance of the closing date for the submission of proposal; to allow offerors to reflect the information disseminated in their proposal.
- b. In addition to the potential offerors who shall be notified reasonably in advance of the conference, the conference shall be attended by the Authority personnel needed to give potential offerors a clear and complete understanding of the Authority's requirements.

8402.3 Offerors' Questions.

When an offerors' conference is not required, interested firms shall be invited to submit all questions in writing. The Authority shall respond to such questions in a timely manner, and responses shall be sent to all firms on the solicitation list.

8402.4 Solicitation Amendments.

- a. The Executive Director shall issue an amendment to a solicitation when necessary to make changes in the solicitation.
- b. Solicitation amendments shall be sent to all firms who received initial solicitations, and shall clearly communicate all changes.

8402.5 When it is necessary to cancel a solicitation in its entirety, notice in writing shall be sent to every firm that received an initial solicitation.

8403 PROPOSAL EVALUATION

Upon receipt of a proposal, the Executive Director shall log the proposal in and distribute the technical response to the TEP for evaluation. Proposals from offerors not solicited by the Authority may be considered at the discretion of the Executive Director. Proposals received after the date and time set forth in the solicitation may be considered only in the event the Executive Director determines that so doing is in the best interest of the Authority.

8403.1 Technical Evaluation

- a. Each technical proposal shall be reviewed by a TEP to determine if it meets the requirements of the solicitation.
- b. Individual proposals shall be evaluated against the evaluation criteria and shall not be compared one against another. Additionally, evaluators may consider information that was not expressly mentioned in the solicitation but that logically bears on the criteria listed. They may consider any information from any source, not merely information contained in the proposal, provided that such information is verified and documented. Each TEP member shall rate the proposal in accordance with the pre-established scale.
- c. After the individual TEP members have completed and documented their evaluations, the TEP shall meet as a group to discuss the strengths and weaknesses of each proposal. The goal of this meeting is to reach a consensus - a team position - on the merits and deficiencies of each proposal, relative to the evaluation criteria, and to agree on an overall ranking to each proposal.
- d. The TEP chairperson shall issue the Final TEP Report to the Executive Director. The report shall reflect the consensus reached at the TEP consensus meeting or the basis upon which the TEP chairperson made a decision if a consensus could not be reached. All TEP members must sign, and all copies of the technical reports and cost proposals that were in the possession of TEP members shall be provided as report attachments.

8403.2 Cost/Price Evaluation

(1) The Elements. Cost/price evaluation includes:

- (a) The predetermined weighting that reflects the importance of total price or estimated cost to the Authority versus technical merit;
- (b) The realism of a proposed cost or price and its correlation with the technical proposal; and
- (c) When fair and adequate price competition is obtained, comparison among proposed prices and to the Authority's estimates is generally adequate to verify that the prices offered are reasonable; and

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- (d) In the case of a proposal offering not a fixed price but an estimated cost of performance, an analysis shall be made of the realism of the estimated cost.
- (2) When a single offer is received in response to a competitive solicitation or when the contract will not have a fixed price, the Executive Director shall verify the reasonableness and realism of the price/costs offers. Techniques for doing so include:
- (a) Comparison of previously proposed costs and previous contract costs against currently proposed costs for the same or similar service or product in comparable quantities;
 - (b) Comparison of proposed costs with the Authority's cost estimates;
 - (c) Application of rough yardsticks (such as dollars per pound, per specific type of data or paperwork processed, or other unit) to highlight significant inconsistencies that warrant additional inquiry; and
 - (d) Comparing an offeror's estimates to historical performance.

8404 SELECTION**8404.1 Proposal Verification**

- a. For a contract with a total estimated price greater than \$500,000, the Authority shall verify the accuracy of salient representations made by the firm to compare proposal resources with actual resources. Forms of verification, including discussions with firm's clients and interviews with key personnel, may be undertaken.
- b. Where appropriate, the Executive Director and/or one or more TEP members may perform on-site visits to evaluate that an offeror's capabilities are as presented in its technical proposals. The primary focus of the site visit is verification of the contractor's capacity and resources to perform the work.
- c. For the purposes of obtaining information on which to base financial capacity assessments, the Executive Director may require final candidates to submit additional financial information, as needed, unless they provided sufficient information in their initial proposal.

8404.2 Selection Process.

- a. Following initial evaluation of proposals, the Executive Director shall determine the approach to be followed in selecting one or more firms for contract award. One of the three following approaches may be used.
- b. A contract may be awarded on the initial ranking that results from technical and cost evaluations of the proposals without further discussions or negotiations.
- c. Firms may be selected based on competitive range determination, and discussions may be held with, and best and final offers (BAFOs) solicited from, only those firms in the competitive range.
- d. Negotiations may be conducted with one or more firms, simultaneously or sequentially. This approach should be used when the requirement is complex or of high dollar value.

8404.3 Award Based on Negotiations

- a. After considering the TEP report and any other findings, the Executive Director may select, for negotiations, one or more qualified offerors whose proposal(s) appear to represent the best value to the Authority.

1. The goal of negotiations is for the Authority and a final candidate to resolve differences of opinion regarding technical, management, or pricing terms and conditions that were not resolved with existing information. Negotiations shall be conducted in good faith and within generally accepted business practices. All negotiations sessions shall be fully documented by the Authority.
 2. This method saves offerors with no likely chance of being selected the additional expense of discussions, negotiations, and preparation of written BAFOs.
 3. If the technical and cost evaluation clearly identifies a firm that is superior to others, only that candidate shall be selected for negotiations. If there are several firms with closely similar scores, negotiations shall be initiated with the closely related firms. An offeror need not have a fully acceptable proposal to qualify for negotiations, provided the Executive Director believes that its proposal can be made fully acceptable during the negotiations.
- b. The Executive Director shall promptly notify, in writing, those offerors who will not be included in the negotiations process.
- c. Request for Negotiated Final Offers
- (1) A request for a negotiated offer shall state that negotiations are concluded and provide any candidate an opportunity to submit negotiated final offers by confirming cost, technical, or other terms and conditions agreed upon. A submission date and time that allow a reasonable opportunity for submission of written negotiated offers shall be included.
- Note: No (2) in original document
- (3) If the Executive Director determines that the revised offers have an effect on technical requirements or may alter the TEP's initial analysis of cost realism, further TEP evaluation may be required.

8404.4 Award Based on Competitive Range Determination and Discussions

- a. Determination of Competitive Range
- (1) The determination is made on the basis of technical, cost, and other factors as stated in the solicitation. The competitive range shall include all proposals that have a reasonable chance of being selected for award;
 - (2) When there is doubt as to whether a firm should be included within the competitive range, that firm shall be included. The Executive Director shall provide to the TEP a list of offerors in the competitive range, and shall promptly notify those offerors that have been eliminated from competition.
- b. Discussions.
- (1) The goal of discussions is to assure the Authority that the final candidates understand and can achieve the requirements of the Authority's solicitation.
 - (2) The Authority shall:
 - (a) Advise the offeror of deficiencies in its proposal;
 - (b) Attempt to resolve any uncertainties concerning the offeror's proposal; and
 - (c) Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information on other offerors' proposals or the evaluation process.

(3) The Authority shall not:

- (a) Help an offeror bring its proposal up to the level of other proposals through successive discussion opportunities;
- (b) Disclose technical information pertaining to one proposal that results in improvement of an competing proposal;
- (c) Indicate to an offeror a price that it must meet to obtain further consideration; or
- (d) Furnish information about other offerors' proposed costs.

c. The extent of discussions is determined on a case-by-case basis but shall provide all parties with an equal opportunity for improvement. Each offeror shall be given a reasonable opportunity to support, clarify, correct, improve, or revise its proposal.

d. A best and final offer (BAFO) is a revision to the original cost and technical proposals that reflects the firm's best offer to the Authority. After discussions with all offerors in the competitive range have concluded, the Executive Director shall solicit BAFOs from all offerors in the competitive range.

- (1) The request shall state that discussions are concluded and give notice of the opportunity to submit BAFOs by revision cost proposal, technical proposal, or other-terms and conditions of the original proposals. A common cutoff date and time reasonable opportunity for submission of written BAFOs shall be provided.
- (2) After receipt of BAFOs the Executive Director shall not reopen discussions unless it is clearly necessary in the Authority's interest to do so, or when available information is not adequate for contractor selection and award.
- (3) After the close of discussions and the receipt of BAFOs, the TEP shall reconvene to consider only the changes that are brought about by the BAFOs.

8404.5 The Executive Director shall determine the best value to the Authority based on the stated technical evaluation criteria and the offeror's price, considering all rankings, ratings, or other information by the TEP. Decisions shall be supportable, documented and reasonable, based on the evaluation factors.

Section 8405 Contract Award

8405.1 The Executive Director shall prepare a memorandum detailing the procurement and the rationales for the source selection. For procurements in excess of \$1,000,000 on an annual basis, the memorandum shall be provided to the Chair for review and approval.

8405.2 Notification of Unsuccessful Offerors/Debriefings

- a. Following contract award the Executive Director shall send a timely written notice of the award to all unsuccessful offerors who continued to participate in the procurement.
- b. A request for a debriefing made within a reasonable time after notice of award by an unsuccessful offeror may be accommodated by the Executive Director in his or her discretion. The purpose of the debriefing is to inform the unsuccessful offeror why its proposal was not selected, to emphasize areas in which improvements may enhance its

chances of receiving future contracts from the Authority, and to provide the offeror with an understanding of the general basis for selection of the successful offeror.

CHAPTER 85

TASK ORDER AGREEMENTS

8500 OVERVIEW

8500.1 Scope

(a) Task Order Agreements. A task order agreement is a contracting method intended for repetitive requirements. The Authority identifies recurring needs and prepares a general statement of work for the required services or goods. Firms are solicited and agreements are established with one or more firms that have the qualifications and capability to meet the Authority's anticipated future needs.

(b) Task Order. When needs covered by the agreement arise, the Authority prepares a SOW and an abbreviated solicitation process occurs with one or more of the contractors previously awarded a task order agreement. A task order is awarded to the successful firm. Multiple task orders may be issued, on an as-needed basis.

(c) Term. It is the Authority's policy to establish task order agreements for an initial term of one year, or less, with a maximum of two one-year renewable options. Task orders need not be completed within that time frame, but both parties must execute the task order before expiration of the final term of the task order agreement.

8501 PROCEDURES FOR ESTABLISHING TASK ORDER AGREEMENTS

8501.1 The use of task order agreements reduces processing lead time when meeting future repetitive Authority requirements. It is appropriate to set up task order agreements when the Authority anticipates repetitive needs within a general service or goods category, and the number of occasions, and the exact period of time, the service will be required is not known.

8501.2 Procedures.

a. The Executive Director shall establish task order agreements for repetitive services or goods with as many firms as is necessary to ensure the advantages of adequate competition, while satisfying the requirements of each task order in a timely manner, and ensure an adequate supply of contractors to meet overall requirements.

b. Task order agreements may be established by either simplified or formal contracting procedures.

8502 TASK ORDERS**8502.1 Method of Solicitation of Task Orders**

- a. Task order agreements shall not be used to avoid the Authority's preference for adequate competition. When appropriate, all task order agreement contractors shall be solicited for each task order. If this is not administratively cost effective, some type of fair and consistent selection shall be used.
- b. The request for a task order proposal shall describe the task order requirement, include the statement of work, and describe the type of proposal required from the contractor and the time frame for its submission. Elements of a task order proposal shall normally include:
 - (1) Management plan, outlining the contractor's technical approach, if appropriate;
 - (2) Schedule of performance for completing the task;
 - (3) Listing of key personnel who will be assigned to the task, with resumes if required; and
 - (4) A cost proposal which will either be a fixed-priced offer or a time-and-materials offer with a ceiling amount.
- c. Contractors shall normally be required to provide a written task order proposal within five business days from receipt of the request.

8502.2 Task Order Contents. All task orders, at a minimum, shall:

- (a) Incorporate terms and conditions of the task order agreement;
- (b) Contain or incorporated a SOW for the specific task to be performed;
- (c) Specify milestones with a schedule of deliverables;
- (d) State a period of performance.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the Register. Comments should be filed with the Office of the Chief Financial Officer, Office of Contract and Procurements, 941 North Capitol Street NE, 8th Floor, Washington, DC 20019. Comments of the proposed rules should be sent in writing to the address stated above.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupation Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 70 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of the amendments is to clarify supervisor qualifications, to clarify the requirements and meaning of supervision, to clarify the post-master's or postdoctoral experience requirement for licensure as an independent social worker or independent clinical social worker, to permit students to apply for licensure during their final semester of an accredited social work program; to permit the use of interactive internet courses for continuing education credits; to increase the number of required continuing education credits; and to simplify the process for obtaining licensure by endorsement.

The following rulemaking action is proposed:

17 DCMR Chapter 70, SOCIAL WORK, is amended as follows:

Section 7000.3 is repealed.

Section 7001 is amended to read as follows:

- 7001.1 A license issued pursuant to this chapter shall expire on July 31st of each odd-numbered year.
- 7001.2 [REPEALED]

Section 7002.2 is amended to read as follows:

- 7002.2 The degree program upon which an applicant relies shall appear in the edition of the "List of Colleges and Universities with Accredited Social Work Degree Programs" published by the Council on Social Work Education applicable to the year in which the degree was conferred.

Sections 7002.3-7002.5 are repealed.

Section 7004.1 is amended to read as follows:

- 7004.1 Except as otherwise provided in this subtitle, an applicant shall receive a passing score on the required level of the examination sponsored by the Association of

Social Work Boards (the “national examination”) or on another examination determined by the Board to be equivalent.

Section 7004.2 is amended to read as follows:

- 7004.2 An applicant who has passed the examination required under § 7004.1 more than five (5) years prior to the application date, shall be required to retake the examination unless the applicant demonstrates to the satisfaction of the Board that the applicant has been continuously licensed and practicing as a social worker in the United States since the date the applicant passed the examination.

Section 7004.7 is amended to read as follows:

- 7004.7 An applicant shall submit the applicant’s examination results, which have been certified or validated by the Association of Social Work Boards (ASWB), to the Board with the completed application.

A new section 7004.8 is added to read as follows:

- 7004.8 The Board may require an applicant who fails to pass the examination after two (2) consecutive attempts to complete a review course approved by the Board or any remediation as determined by the Board to be appropriate, prior to retaking the examination.

A new section 7005 is added to read as follows:

7005 ELIGIBILITY TO TAKE NATIONAL EXAMINATION

- 7005.1 An individual may be eligible to take the national examination if the individual:

- (a) Has completed a social work program accredited by the Council of Social Work Education; or
- (b) Is enrolled in his or her final semester or quarter of a social work program accredited by the Council of Social Work Education, and is expected to receive the applicable social work degree at the end of the semester or quarter.

- 7005.2 A student enrolled in his or her final semester or quarter of a social work program accredited by the Council of Social Work Education, who is a candidate for a degree in Social Work, may request approval from the Board to sit for the national examination as follows:

- (a) By submitting an application to the Board for a license by examination on the required forms, which includes the following:

- (1) The applicant’s social security number or if the applicant does not have a

social security number, a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and

- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) By submitting a written request to the Board for authorization to take the national examination prior to graduation;
- (c) By arranging for the education institution to submit to the Board, official evidence under seal of the university or school indicating:
 - (1) The degree that the student is expected to receive; and
 - (2) The date that the student is expected to receive the degree.
- (d) By meeting any other requirements as set forth by the Board; and
- (e) By paying all required fees.

7005.3 Approval to take the national examination shall be effective for two (2) examinations or one hundred and twenty (120) days, whichever comes first.

7005.4 After graduating from the social work program, and taking the national examination, the student shall submit to the Board the required documents as set forth under § 7006.2(b)-(e) of this chapter to complete the applicant's application for a license by examination.

7005.5 An application that remains incomplete for one hundred and twenty (120) days or more from the date of submission shall be considered abandoned, and closed by Board. The applicant shall thereafter be required to reapply, comply with the current requirements for licensure, and pay the required fees.

7005.6 A license may not be granted until the Board receives proof of graduation.

Section 7006 is amended to read as follows:

7006 LICENSE BY EXAMINATION

7006.1 To qualify for a license by examination, an applicant shall:

- (a) Be a graduate of a social work program accredited by the Council of Social Work Education at the time the applicant graduated;
- (b) Receive a passing score on the required level on the national examination or on

another examination determined by the Board to be equivalent;

- (c) Meet the training requirements for the level of licensure sought; if any, and
- (d) Meet any other requirements as set forth by the Board.

7006.2 To apply for a license by examination, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) Submit to the Board a certified transcript from an education institution which shall appear in the edition of the "List of Colleges and Universities with Accredited Social Work Degree Programs", published by the Council on Social Work Education applicable to the year in which the degree was conferred;
- (c) Submit to the Board the applicant's certified or validated national examination results;
- (d) Submit to the Board two (2) professional references and one (1) personal reference;
- (e) Submit any other required documents; and
- (f) Pay all required fees.

7006.3 An applicant for a license as an independent social worker or independent clinical social worker shall submit with the application the following:

- (a) Proof satisfactory to the Board that:
 - (1) The applicant has completed the applicable supervised practice requirements of the Act under the supervision of a qualified supervisor as set forth under § 7013 of this chapter; and
 - (2) At least one hundred (100) hours of the applicant's three thousand (3000) hours of supervised practice was completed under the immediate face-to-face supervision of a qualified supervisor as set forth under § 7013 of this

chapter.

- (b) The name(s) of the applicant's supervisor(s);
- (c) A statement detailing the nature and locations of the applicant's experience; and
- (d) A signed statement from each supervisor during the required period of supervised practice on a form approved by the Board, which sets forth the following:
 - (1) The location at which and period of time during which the supervised practice took place;
 - (2) The hours of supervision of the applicant;
 - (3) The hours of immediate supervision of the applicant;
 - (4) The specific nature of and responsibilities included in the applicant's practice;
 - (5) A rating of the applicant's performance; and
 - (6) The qualifications of the supervisor to act as such pursuant to the Act and this chapter.

7006.4 The performance of an applicant subject to § 7006.3 during the required period of supervised practice shall at all times have been rated as satisfactory or better.

7006.5 An applicant for licensure in the District of Columbia who has obtained his or her required three thousand (3000) hours of post-master's or postdoctoral experience outside of the District of Columbia:

- (a) Shall submit proof satisfactory to the Board that the hours were valid or legally recognized in the jurisdiction in which they were obtained; and
- (b) Shall submit proof satisfactory to the Board that the applicant's supervisor met one of the following requirements:
 - (1) The supervisor was licensed in good standing in the United States as an independent social worker or independent clinical social worker, as applicable;
 - (2) The supervisor was licensed in good standing in the United States at a level equivalent to that of an District of Columbia independent social worker or independent clinical social worker, as applicable; or

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- (3) The supervisor was qualified for licensure, in good standing, as an independent social worker or independent clinical social worker in the District of Columbia, as applicable, regardless of whether or where the supervisor was licensed.

7006.6 If the applicant has obtained less than the required thousand (3000) hours of post-master's or postdoctoral experience, the applicant must obtain the remaining hours in or out of the District of Columbia before he or she will be granted licensure. If the applicant elects to complete the hours in the District of Columbia, the applicant must first obtain licensure under the Act at the next lower level, for which the applicant is qualified, in order to engage in supervised practice within the District.

7006.7 The Board shall recognize the hours validly or legally obtained outside of the District of Columbia and apply the hours toward the applicant's required total for licensure.

Section 7007 is amended to read as follows:

7007 LICENSE BY ENDORSEMENT

7007.1 An applicant is eligible for a license by endorsement if the applicant:

- (a) Obtained initial licensure in the United States by an examination equivalent to the level of licensure for which the applicant is applying; and
- (b) Is currently licensed in good standing as a social worker under the laws of a state or territory of the United States pursuant to licensure requirements which, as determined by Board, were substantially equivalent at the time of licensure to the requirements of this chapter.

7007.2 To apply for a license by endorsement, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall submit a sworn affidavit, under penalty of perjury, with the application stating that he or she does not have a social security number; and
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) Submit a copy of his or her current license with the application;

- (c) Obtain licensure verification from the original state or territory of licensure that the license is current and in good standing. The licensure verification form must be sent directly to the Board, by the verifying Board;
- (d) Submit the applicant's certified or validated examination results, which shall confirm that the applicant has received a passing score on the required level of the national examination or on another examination determined by the Board to be equivalent;
- (e) Meet any other requirements as set forth by the Board; and
- (f) Pay all required fees.

7007.3 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned, and closed by the Board. The applicant shall thereafter be required to reapply, submit the required documents and completed forms, and pay the required fees.

7007.4 Nothing in this section shall be construed to prohibit the Board from utilizing other authorized databases to verify an applicant's current licensure standing in other jurisdictions of the U.S. or to review disciplinary records.

Section 7008 is amended to read as follows:

7008 CONTINUING EDUCATION REQUIREMENTS

7008.1 Except as provided in § 7008.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license.

7008.2 This section shall not apply to applicants for an initial District of Columbia license, nor to applicants for the first renewal of a license granted by examination.

7008.3 Continuing education credits (CEUs) may be granted only for programs or activities approved by the Board.

7008.4 Beginning with the renewal period of 2007, an applicant for renewal of a license shall have completed forty (40) hours of approved continuing education credit during the two-year period preceding the date the license expires. A minimum of six (6) hours of the total continuing education credits shall have been in ethics.

7008.5 To qualify for a license, an applicant in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001), who submits an application to reactivate a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year that the applicant was in active status.

- 7008.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year that the license was expired.
- 7008.7 An applicant under this section shall submit with the application a completed form approved by the Board for each program for which continuing education credit is claimed, and shall maintain for a period of at least five (5) years the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of completion, by signature or stamp.
- 7008.8 An applicant for renewal of a license who fails to submit proof of having completed continuing education requirements by the date the license expires may renew the license up to sixty (60) days after the expiration by submitting this proof and paying the required additional late fee.
- 7008.9 Upon submission of proof and payment, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the proof and payment.
- 7008.10 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late fee within sixty (60) days after the expiration of the applicant's license, the license shall be considered to have lapsed on the date of expiration.
- 7008.11 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause.
- 7008.12 An applicant under this section shall prove completion of continuing education course work which was audited under § 7010.3 by submitting with the application a verification of registration from the office of the registrar of the institution at which the course was audited.

Section 7009 is amended to read as follows:

**7009 APPROVED CONTINUING EDUCATION PROGRAMS AND
 ACTIVITIES**

- 7009.1 The Board shall approve only continuing education programs and activities that contribute to the growth of an applicant in professional competence in the practice of social work and which meet the other requirements of this section.
- 7009.2 The Board may approve the following types of continuing education programs, if the programs meet the requirements of § 7009.6:
- (a) An undergraduate or graduate course given at an accredited college or university;
 - (b) A seminar or workshop; and
 - (c) An educational program given at a conference.
- 7009.3 The Board may approve the following independent home studies and distance learning continuing education activities:
- (a) Serving as an instructor or speaker at a conference, seminar, or workshop;
 - (b) Publication of an article in a professional journal, publication of a book or a chapter in a book, or publication of a book review in a professional journal or bulletin;
 - (c) Internet courses, video courses, telecourses, videoconferences, and teleconferences offered by accredited colleges or universities, or pre-approved by the ASWB; and
 - (d) Independent study programs directly related to social work approved by accredited college or university schools of social work, local or national professional social work organizations, the ASWB, or the Board.
- 7009.4 No more than twelve (12) CEUs may be accepted in any renewal period, or for reinstatement or reactivation of a license, for approved independent home studies and distance learning continuing education activities.
- 7009.5 Independent study programs shall not be used to satisfy the continuing education ethics requirement.
- 7009.6 To qualify for approval by the Board, a continuing education program shall meet the following requirements:

- (a) Be current in its subject matter;
- (b) Be developed and taught by qualified individuals in consultation with a licensed social worker; and
- (c) Meet one of the following requirements:
 - (1) Be administered or approved by:
 - (A) A recognized social work, mental health, or human services organization that is approved by the Board; or
 - (B) A college or university that is accredited by an accrediting body recognized by the Secretary of the United States Department of Education or the Council on Postsecondary Accreditation; or
 - (2) Be submitted by the program sponsors to the Board for review no less than three (3) months prior to the date of the presentation and be approved by the Board.

7009.7 Requests for approval of continuing education programs received by the Board after the continuing education program has already occurred will not be approved or accepted.

7009.8 The Board may issue and update a list of approved continuing education organizations and programs.

7009.9 An applicant shall have the burden of verifying whether a program or activity is approved by the Board pursuant to this section prior to attending the program or engaging in the activity.

A new section 7010 is added to read as follows:

7010 CONTINUING EDUCATION CREDITS

7010.1 The Board may grant continuing education credit in whole hours only, with a minimum of fifty (50) minutes constituting one (1) credit hour.

7010.2 For approved undergraduate or graduate courses that are taken for educational credit, each semester hour of credit constitutes twenty (20) hours of continuing education credit, and each quarter hour of credit constitutes fourteen (14) hours of continuing education credit.

7010.3 For approved undergraduate or graduate courses that are audited, each semester hour shall constitute fifteen (15) hours of continuing education credit, and each

quarter hour shall constitute ten (10) hours of continuing education credit.

7010.4 The Board may grant a maximum of six (6) continuing education credits per year for completing continuing education activities under § 7009.6.

7010.5 The Board may grant credit for preparation and presentation time to an applicant who serves as an instructor or speaker at an approved program under § 7009.6(a) subject to the following restrictions:

(a) The maximum amount of credit that may be granted for preparation time shall be twice the amount of the associated presentation time;

(b) If an applicant has previously received a credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject; and

(c) The presentation shall have been completed during the period for which credit is claimed.

7010.6 The Board may grant continuing education credit under § 7009.6(b) only if the applicant proves to the satisfaction of the Board that the work has been published or accepted for publication during the period for which credit is claimed.

Section 7011 is amended to read as follows:

7011 STANDARDS OF CONDUCT

7011.1 Any holder of a license under this Chapter or any person authorized to practice social work or to perform social work functions under this Chapter shall comply with the standards of ethical and professional conduct established by the National Association of Social Workers in its publication entitled "Code of Ethics," as it may be amended or republished from time to time.

A new section 7012 is added to read as follows:

7012 SUPERVISION OF PRACTICE BY STUDENTS, APPLICANTS, AND SOCIAL WORKERS

7012.1 Only the following persons may practice under supervision:

(a) Students fulfilling educational requirements in a program which meets the requirements of § 103(c) of the Act, D.C. Official Code § 3-1201.03 and 17 DCMR § 7002.2;

(b) An applicant who is applying for his or her first license in the District

provided that he or she has submitted all required documents including a passing test score on an examination approved by the Board;

(c) A licensed social work associate;

(d) A licensed graduate social worker; or

(e) A social worker licensed under the Act, who is obtaining the required three thousand (3000) hours of post-master's or postdoctoral experience pursuant to § 803 or § 804 of the Act, D.C. Official Code § 3-1208.03(a) or D.C. Official Code § 3-1208.04(a).

7012.2 A person who has been denied a license or disciplined, or who is the subject of a pending denial or disciplinary action, in the District or other jurisdiction shall not practice pursuant to this section unless authorized by the Board in writing to do so.

7012.3 Only a supervisor, meeting the qualifications as set forth in § 7013 of this chapter, shall be authorized to supervise the practice of social work in the District of Columbia.

7012.4 A supervisor shall be responsible for ensuring that the individual(s) under his or her supervision is authorized to practice under supervision and may be subject to disciplinary action for supervising unlicensed or unauthorized personnel.

7012.5 A student, applicant, or social worker shall practice social work under supervision only in accordance with the Act and this chapter.

7012.6 All supervised practice shall take place under supervision.

7012.7 Supervision shall include personal observation, evaluation, oversight, review, and correction of services provided by the supervisee.

7012.8 The supervisor shall have sufficient knowledge of all social work contacts of the supervisee's social work practice, including face to face contact with the client when necessary, to develop and to monitor effective service delivery procedures and the supervisee's treatment or service plan.

7012.9 All decisions by a supervisee which require the special skill, knowledge, or training of a social worker shall be made in collaboration with and with the approval of the supervisor. Such decisions may include, but are not limited to: type, duration, effectiveness, and method of services provided; fees and billing procedures; and approval of cases.

7012.10 At least one (1) hour of every thirty-two (32) hours of supervised practice shall be under immediate supervision.

- 7012.11 A supervisor shall be fully responsible for supervised practice by a student, applicant, or social worker during the period of supervision, and shall be subject to disciplinary action for any violation of the Act or this chapter by the person being supervised.
- 7012.12 A student or applicant shall identify himself or herself as such before practicing as a social worker.
- 7012.13 A student or applicant shall not receive compensation of any nature, directly or indirectly, from a patient, except for a salary based on hours worked under supervision.
- 7012.14 A student or applicant shall be subject to all applicable provisions of the Act and this subtitle. The Board may deny an application for a license by, or take other disciplinary action against, a student or applicant who is found to have violated the Act or this subtitle, in accordance with Chapter 41 of this title.
- 7012.15 If the Board finds that a student or applicant has violated the Act or this title, the Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the student or applicant to practice.

Section 7013 is amended to read as follows:

7013 SUPERVISOR QUALIFICATIONS

- 7013.1 Only an independent social worker or independent clinical social worker licensed under the Act, in good standing, who is an appointed faculty member of the accredited school, college, or university, shall be authorized to supervise the practice of a student.
- 7013.2 Only an independent social worker or independent clinical social worker licensed under the Act, in good standing, shall be authorized to supervise the practice of:
- (a) A licensed social work associate;
 - (b) A licensed graduate social worker;
 - (c) An applicant pending licensure in the District as a social work associate, graduate social worker, or independent social worker; or
 - (d) A social worker licensed under the Act, who is obtaining the required three thousand (3000) hours of post-master's or postdoctoral experience pursuant to § 803 of the Act, D.C. Official Code § 3-1208.03(a).
- 7013.3 Only an independent clinical social worker licensed under the Act, in good standing,

shall be authorized to supervise the practice of:

- (a) An applicant pending licensure in the District as an independent clinical social worker; or
- (b) A social worker licensed under the Act, who is obtaining the required three thousand (3000) hours of post-master's or postdoctoral experience pursuant to § 804 of the Act, D.C. Official Code § 3-1208.04(a).

Section 7099.1 is amended as follows:

a) The following term is repealed:

General supervision- a supervision in which the supervisor is available on the premises or by communications device at the time the supervisee is practicing.

b) The following terms with the ascribed meanings are added as follows:

National Examination- the social work licensing examination sponsored by the Association of Social Work Boards.

Supervisee – a student, applicant, or social worker authorized to engage in supervised practice under § 7012.

Supervision- A formalized professional relationship between a supervisor and supervisee in which the supervisor directs, monitors, and evaluates the supervisee's social work practice while promoting development of the supervisee's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

Supervisor – a social worker licensed under the Act, or a qualified supervisor under § 7013, as the context requires, who is responsible for the supervision of a supervisee.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.